



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

April 19, 2003

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

**SUBJECT:** Environmental Justice News for the Week Ending April 13, 2003

**FROM:** Nicholas Targ, Counsel  
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This summarizes environmental justice related news for April 7, 2003, through the week ending April 13, 2003. Except as noted, this review is confined to Lexis/Nexis queries conducted under the following search: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/50 minorit! or low\*\*\*income) or (executive order 12898) or (civil right! w/50 environmental)". Please note that we have not included multiple articles covering the same topic or articles pertaining to international or foreign-based environmental justice issues, unless they have a direct connection to the United States.

For the week ending April 13, 2003, the following news is current:

**A. News-**

1. Gene Sullivan, "Calendar," Newsday, New York, New York (April 12, 2003).

The article reports on a lecture by New York City Councilman Jim Gennaro, who addressed the issue of environmental justice at an event sponsored by the Ethical Society of Queens.

2. Mike Cummings, "North Gulfport Fears Development; Residents: Flooding, Sewage Will Get Worse; Gets Smart Growth Logo," The Sun Herald, Biloxi, Mississippi (April 11, 2003).

"Environmental and community activists have accused [Gulfport] city officials who support the Rockwood development of practicing 'environmental racism,' saying minority communities will suffer greater flooding if the project moves forward." While Gulfport Ward 3 Councilwoman Ella Holmes-Hines, who represents a number of Black communities, is quoted as

saying that “she doesn’t believe the city pays adequate attention to her constituents’ needs,” the article quotes Councilman Kim Savant, as saying that, “[t]his is one of the most environmentally friendly projects in South Mississippi. Ward 3 will receive more than its fair share from Rockwood development. If people don't want to believe that, there's little I can do about it.”

3. Mike Boyer, “Industry Notes: Manufacturing,” The Cincinnati Enquirer, Cincinnati, Ohio (April 10, 2003).

The Alliance for Chemical Safety held a meeting entitled, “Environmental Justice in Cincinnati,” on April 16, 2003. The meeting was held at the Health Foundation of Greater Cincinnati. The Alliance is composed of industries, government agencies and citizens interested in chemical safety.

4. Heather Saucier, “So They Want Your Property; Facts About Flood District’s Land Acquisition, Buyouts, Relocation Assistance,” The Houston Chronicle, Houston, Texas (April 10, 2003).

The article explains the procedure that the Harris County Flood Control District uses to condemn land for projects relating to flood protection. The article also addresses the requirements to be eligible for Environmental Justice Relocation Assistance (EJRA). The article reports that, “EJRA allows a landowner to receive up to \$ 35,000 to relocate. The amount is determined by the difference between the house being sold and the one being purchased. If the landowner does not spend the entire amount on another home, the remainder is used to pay closing costs, supplement the mortgage interest rate differential and moving expenses.”

5. Paige Austin, “EPA to Investigate Wyle Labs: NORCO: Neighbors Contend From the Defense Contractor Threatens Their Health,” The Press Enterprise, Riverside, California (April 8, 2003).

The EPA has initiated an investigation into whether the Wyle Laboratories site warrants federally funded cleanup, according to the article. Residents have raised concerns that contamination at the Wyle facility threatens the health and well being of nearby communities. The article reports that the Center for Community Action and Environmental Justice agreed to make available legal and technical assistance along with \$50,000 to assist neighbors in the effort. “Wyle Labs contracts with the Department of Defense and is authorized to handle radioactive materials and test warheads and missiles. Ground water and soil there have tested positive for toxins and cancer-causing substances such as perchlorate, trichloroethene, dichloroethene and vinyl chloride. A developer has bought the land and plans to build homes there in the next two years.”

6. “Sasol: A Global Leader or a Major Polluter?; South African and African American Communities on the Fencelines of Sasol Facilities Warn Investors of Sasol's Liabilities for Environmental Destruction & Health Threats,” PR Newswire, (April 8, 2003).

Communities next to Sasol Ltd. facilities in South Africa and the United States are working together to inform investors about environmental concerns, according to the article. The article states, “air samples taken in 2001 and 2002 by residents in Sasolburg, the town named after the company [in South Africa], identified elevated levels of many toxic pollutants, including methyl ketone, xylene, styrene, toluene, trichloroethene and vinyl chloride.”

Mossville, Louisiana residents, also located near a Sasol facility, similarly raise concerns about

alleged adverse health effects.

7. Gregory McGavin, "Suit Seeks to Halt Project: The action says the March Business Center will attract polluting big-rigs," The Press Enterprise, Riverside, California (April 7, 2003).

Residents of three communities, with help from environmental activists, filed a lawsuit to stop development of the March Business Center in Riverside, California, according to the article. The article states that opponents of the business center, which has been under study for nearly a decade, "fear it will turn into a sea of warehouses served by diesel exhaust spewing big-rig trucks and further polluting one of the smoggiest areas in the nation." Peggy Newman, Executive Director of the Glen Avon-based Center for Community Action and Environmental Justice said, "These trucks don't just appear right at March. They go through communities, they go past schools, they impact communities all through the Riverside area." The article reports that, "Government officials and planners plan to appeal and they aren't taking the lawsuit lightly. Last year, after a decade of fighting over what to do with the closed Marine Corps Air Station El Toro, the city of Irvine abandoned plans to build Orange County's second commercial airport at the site, now to be turned into a park."

8. "Broad Policy Spectrum Reflected in Nation's Think Tanks," Newhouse News Service (April 7, 2003).

The article provides an overview of United States "think tanks," and the spectrum of policy issues that they address. One of the featured institutions is the Institute for Policy Studies, which is focusing on the issue of environmental justice.

## **B. Legislation/Policy–**

1. **149 Cong Rec H 3078, Representative Alcee Hastings (D-FL) (April 10, 2003).**

Speaking on the energy policy bill, H.R. 6, which recently passed the House of Representatives, Alcee Hastings spoke, "[to bring] this body's attention [to] the Majority's lack of consideration and complete disregard to issues of environmental justice." Specifically, he objected to a Rules Committee vote, along party lines, which precluded his ability to offer an amendment to H.R. 6 that would have "directed the Secretary of Energy to take all necessary steps and efforts to mitigate any adverse impacts that U.S. energy policy and the provision of H.R. 6 may have on minority, rural, Native American, and underserved communities." The fairly extensive comments included the failed amendment.

2. **EPA, Establishment of FACA Committee and meeting announcement. (April 7, 2003).**

The Environmental Protection Agency gave notice of the establishment of a Negotiated Rulemaking Committee which will "assist the Agency in performing its duties as prescribed in the Small Business Liability Relief and Brownfields Revitalization Act (the Brownfields law). Negotiations will begin in April 2003 and conclude by December 2003." Among the 25 participants, EPA anticipates that the committee will include the following categories of stakeholders: Environmental Interest Groups; Environmental Justice Community; Federal Government; Tribal Government; State Government; Local Government; Real Estate Developers; Bankers and Lenders; and, Environmental Professionals.

3. **California, Draft Notice of Proposed Rulemaking, Public Resource Code section 71116,**

#### **Environmental Justice Small Grant Program (April 11, 2003).**

In pertinent part, the notice of proposed rulemakings provides that, “the [state] Agency is authorized to allocate a maximum of twenty thousand dollars (\$20,000) and a minimum of five thousand dollars (\$5,000) for each [environmental justice] project. . . . The regulations will describe the procedures for applying for the EJ Small Grant Program, the criteria to be used in determining which applications will be funded and the administrative and fiscal requirements governing the receipt and expenditure of the grants in accordance to the Public Resource Code section 71116.” The comment period will close on May 26, 2003.

#### **4. California, A.B. 1495. Introduced by Cindy Montanez (D-39th Dist.) February 14, 2003.**

*Status: Referred to Assembly Committee on Labor and Employment, March 6, 2003; Second reading in Assembly with amendments by sponsor, April 10, 2003; Re-referred to Assembly Committee on Labor and Employment, April 10, 2003.*

The synopsis states that this bill, “[p]rovides that any significant change in the design or operation of a solid waste facility is a project that may have a significant effect on environment for purposes of the California Environmental Quality Act. Prohibits the approval of an environmental impact report or negative declaration for any project involving a significant change in the design or operation unless the report contains a review of environmental justice issues and cumulative impacts.”

#### **5. California, SB 983. Introduced by Senator Alarcon (D-20th Dist.) on February 21, 2003.**

*Status [NT NOTES: Major Action only]: Amended by sponsor in Senate Committee on Rules, April 8, 2003; Read in Senate for a second time, April 10, 2003; Re-referred to Senate Committee on Environmental Quality, April 10, 2003.*

The synopsis states that this bill would, “[require] any person applying for a solid waste facilities permit for an urban landfill to include a Greenfield plan that contains specified elements, the establishment of a mitigation fund and an attrition plan for the urban landfill's employees. Authorizes the issuance of a permit only if it is determined the permit application specifies how the operation will address the environmental justice concerns of the surrounding community.”

[http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=sb\\_983&sess=CUR&house=B&author=alarcon](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_983&sess=CUR&house=B&author=alarcon)

#### **6. California, SB 518, “A bill to amend the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002.” Introduced by Senator Martha Escutia (D-30 Dist.) on February 20, 2003. Status: referred to Senate on Rules; referred to Committee on Agriculture and Water, March 28, 2003; Amended by sponsor April 8, 2003.**

Among other things, this bill would amend the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, by requiring “agencies... to consider adopting criteria that includes a preference for projects that benefit those areas with the highest population density and that face water supply shortages because their domestic water wells are located within 500 feet of groundwater recharge areas, and projects that benefit severely economically disadvantaged areas or economically disadvantaged areas that will enhance environmental justice, if those projects are otherwise eligible for assistance in accordance with the applicable requirements of the act.”

[http://info.sen.ca.gov/cgi-bin/postquery?bill\\_number=sb\\_518&sess=CUR&house=B&site=sen](http://info.sen.ca.gov/cgi-bin/postquery?bill_number=sb_518&sess=CUR&house=B&site=sen)

**7. Connecticut, HB 630, “An Act Concerning Environmental Justice.” Introduced by Public Health Committee on January 28, 2003. Status [note only major action referenced]:** *Joint Favorable Substitute House Environment Committee, March 6, 2003; Favorable Substitute Senate Environment Committee, March 13, 2003; Filed with Legislative Commissioners’ Office, April 4, 2003; Referred to Office of Legislative Research and Office of Fiscal Analysis, April 11, 2003.*

The associated reasons for the bill provide that, “[t]his bill mandates equity in the planning, construction, and operation of activities and facilities that may adversely affect public health to ensure that no racial or ethnic group or any particular geographic area bears a disproportionate share. [Several identified Connecticut state agencies] shall each develop an environmental justice action plan and shall specifically address and consider such environmental justice action plan prior to granting any license, permit or authorization, or taking any action that could have human health or environmental effects.”

<<http://www.cga.state.ct.us/2003/cbs/H/HB-6360.htm>>

**8. New York, AB 1110 accompanying S.B. 2095, “An act to amend the environmental conservation law, in relation to creating the state urban pesticide board and providing for the repeal of certain provisions upon expiration thereof.” Introduced by Keith Wright (D-70th Dist.) on January 14, 2003. Status [NT NOTES: Only Major Action reported]:** *Referred to Assembly Committee on Environmental Conservation, January 14, 2003; Referred to Assembly Committee on Ways and Means, February 25, 2003; Amended and recommit to Assembly Committee on Ways and Means, April 9, 2003.*

Among other things, this bill would create a state urban pesticide board which would consider issues pertaining to the application of pesticides in urban areas. The board would included a representative of “an organization focused on environmental justice issues.”

<http://assembly.state.ny.us/leg/?bn=A01110>

### **C. Litigation, Agency Decisions—**

1. EPA, Section 309 Comment letter regarding MMS Environmental Impact Statement on ERP No. F-MMS-L02028-AK Beaufort Sea Planning Area Multiple Sale 186, 195 and 202 Oil and Gas Lease Sales, Alaska Outer Continental Shelf, Offshore Marine Environment, Beaufort Sea Coastal Plain, and the North Slope Borough of Alaska. (April 11, 2003).

The summary of comments provides that, “EPA continues to have environmental objections due to potential impacts to subsistence resources used by environmental justice and Tribal communities. Subsequent EISs addressing oil and gas exploration and development will need to significantly add information and protective measures if these activities affect areas containing subsistence resources.”

2. Flores v. Village of Bensenville, Docket No. 00 C 4905, (ND IL March 25, 2003), 2003 U.S. Dist. LEXIS 4693.

A Federal district court granted the Village of Bensenville’s summary judgement, under the facts of the case, against a Hispanic home owner, who alleged unlawful, disparate impact discrimination pursuant to the Fair Housing Act and 42 U.S.C. § 1983. The court’s disparate impact analysis was based on the discriminatory intent analysis established under Arlington Heights. No reference was made to the Supreme Court’s recent § 1983 decisions or Sandoval.